



August 18, 2010

Mr. Nabil Kanso
10966 SE McLoughlin Blvd.
Milwaukie, OR 97222

Land Use File: DI-10-01 – Director's Interpretation of the Light Emitting Diode (LED) Signs in Downtown

Dear Mr. Kanso:

This letter is a Director's Interpretation as authorized in Milwaukie Municipal Code (MMC) Section 19.1001.4. As explained in MMC 19.1001.4(A), the interpretation process is provided to resolve unclear or ambiguous terms, phrases, and provisions within the Titles 14, 17, and 19 of the Milwaukie Municipal Code.

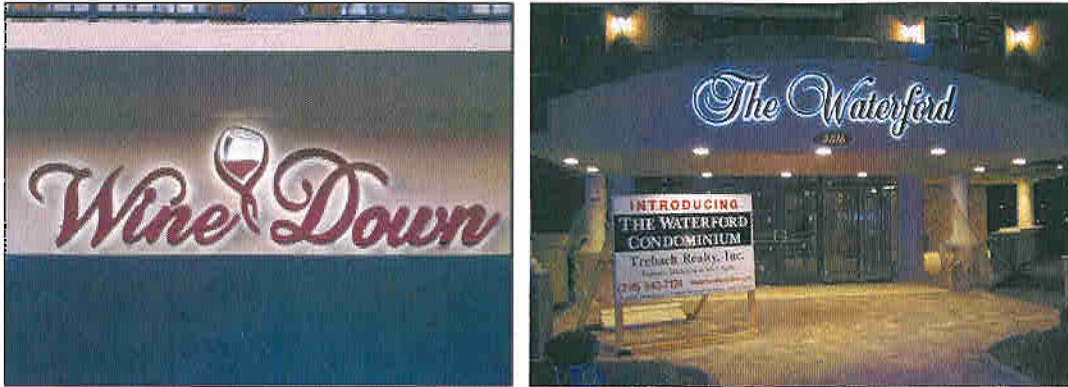
On July 27, 2010, the City of Milwaukie received a request from you regarding the interpretation of the allowance for LED signs in the downtown sign district. For the reasons explained below, it is my interpretation that LED illumination, and LED reader boards that are directly visible, are not allowed outright in the downtown sign district.

Code Language of Title 14 - Signs

The basis of this interpretation is in the introduction to the downtown sign district. MMC 14.16.060 begins with the introductory provision: *"No sign shall be installed or maintained in the DC, DS, DO, DR and DOS Zones, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in this section."* I interpret this provision to mean that if a sign does not fit the description of either the exempted sign section or the signs described in MMC 14.12.060, then the sign is not allowed.

MMC 14.12.010, Exempted Signs, does not have any specific provisions regarding sign illumination. This leaves MMC 14.16.060.H as the applicable illumination regulations for the downtown zones. The signs described in this subsection are as follows:

MMC 14.16.060.H.1: "Signs with opaque letters or symbols that are backlit, having a light source behind the opaque area and not directly visible from in front of the sign, are permitted." I interpret this provision to allow signs similar to the one in Figure 1a and 1b. LED illumination could be utilized for the backlighting in signs permitted by this subsection, though the LEDs themselves could not be directly visible.



Figures 1a and 1 b: Backlit signs with opaque letters.

MMC 14.16.060.H.2: "Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets." I interpret this subsection to allow signs similar to what is shown in Figure 2a and 2b. LED illumination could be allowed as the light source for the indirect illumination, but would need to be appropriately screened from being directly visible.



Figures 2a and 2 b: Signs with indirect illumination.

MMC 14.16.060.H.3: "Awning signs shall not be internally illuminated. Features on an awning sign may be externally illuminated subject to review by the Design and Landmarks Committee and approval by the Planning Commission... according to the following criteria:

- a. Sign lighting should be designed as an integral component of the building and sign composition.
- b. Sign lighting should be designed primarily for the enhancement of the pedestrian environment along adjacent streets and open spaces.
- c. Lighting should contribute to a sign that is architecturally compatible with the character of the area."

I interpret this subsection to prohibit signs similar to the one in Figure 3 to be prohibited. Signs similar to what is depicted in Figure 4 may be permitted, subject to the approval process in this subsection. It is possible that LEDs could be integrated into an awning sign and approved by the Design and Landmarks

Committee and Planning Commission. This would be allowed on a discretionary basis.

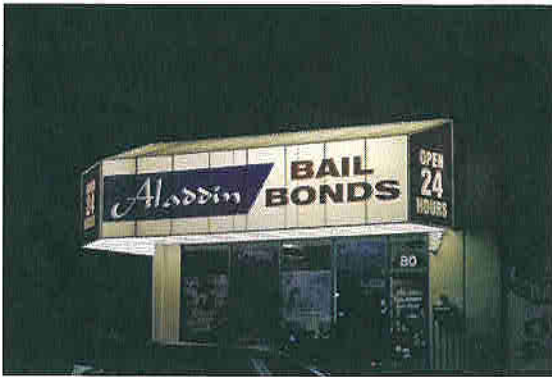


Figure 3: Prohibited illuminated awning sign.

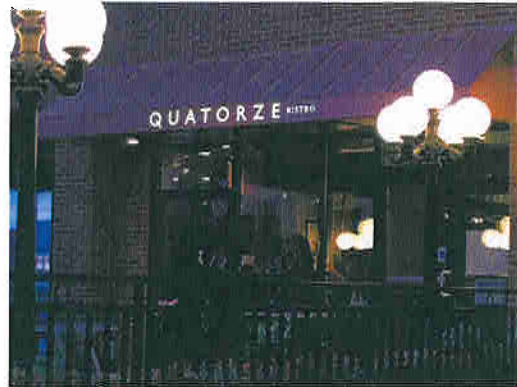


Figure 4: Illuminated features on an awning

MMC 14.16.060.H.4: "Sign illumination shall be directed away from, and not be reflected upon, adjacent premises." This subsection regulates the orientation of lighting fixtures that provide indirect illumination of signs and does not relate to the type of illumination.

MMC 14.16.060.H.5: "Internally illuminated cabinet signs are discouraged in the downtown zones. Internal illumination of cabinet signs may be permitted subject to design review by the Design and Landmarks Committee and approval by the Planning Commission..." I interpret the signs allowed by this subsection as being similar to the ones illustrated in Figure 5a and 5b. LEDs could be used as an illumination source for internally illuminated cabinet signs, but by the definition of internal illumination, could not be directly visible.



Figure 5 a and 5b: Internally illuminated cabinet signs

MMC 14.24.020 has additional standards for sign illumination in all zones. The last provision of this subsection, MMC 14.24.020.E, states: *In the event of a conflict between the standards in this section and a specific standard in the regulations for a sign district, the sign district regulations shall prevail.* Though

LEDs are not specifically mentioned in MMC 14.24.020, this provision clearly states that the provisions of MMC 14.16.060.H supersede the provisions of this subsection. As outlined above, nothing in MMC 14.16.060.H would allow LED illumination to be directly visible.

Arguments for LED Illumination Allowance

The circumstances that gave rise to the request for a Director's Interpretation are that a freestanding sign at 10966 SE McLoughlin Blvd was refaced. As part of the refacing, LED signs were added that display gasoline prices at the service station on the property. The application for this Director's Interpretation includes several arguments for allowing LED reader board signs. These arguments are summarized as follows:

- 1) McLoughlin Blvd is an automobile oriented road. LED signage that is designed to be seen more by automobile traffic is appropriate in this location even though it may not be appropriate for other parts of downtown. The sign code acknowledges the different character of McLoughlin Blvd by its allowance for taller freestanding signs along this road.
- 2) The LED sign installed at the site does not detract from the overall aesthetics of the site, and is an improvement on the previous sign. As such, it conforms generally to the purpose statements the sign code and the Downtown Design Guidelines. The brightness of the sign can be controlled, and the sign does not flash or change copy in a way that would pose a safety hazard.
- 3) The LED sign uses less energy than other forms of sign illumination. It is also advantageous to have an electronic changing sign because of the safety hazard posed by manually changing gasoline prices along busy streets.

I agree that each of these arguments has merit. However, I may not consider site-specific and business specific factors while processing a sign permit under the existing code.

Conclusion

As described above, I do not interpret the code to allow LED reader board signs in the downtown zones. This interpretation is based on the language of the adopted code and cannot take into account the specific factors in your arguments. Such factors may, however, provide the basis for an application for a variance from the standards of the sign code or a proposal to amend the regulations in the City's sign code.

This interpretation may be appealed to the Planning Commission within 14 days of the date of this letter. The appeal process is described in MMC 19.1011.4(G) and (H), and the Appeal application is available on the City's website. The fee for an appeal is \$500.

Sincerely,



Katie Mangle
Planning Director

CC: James Crawford, 12620 SW Foothill Drive, Portland, OR 97225
Sarah Lander, Code Compliance Assistant
File: DI-10-01